IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 16040 of 2006

DATE OF DECISION: 31.10.2006

Balwinder Kaur and others ....Petitioners.

Versus

State of Punjab and others ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. Arun Bansal, Advocate for the petitioners.

J.S. Khehar, J.

The petitioners claim that they have passed their Matriculation examination from the Punjab School Education Board. They also claim that they have completed a course of training and passed an examination conducted by the Punjab Nurses Registration Council. On the basis of the aforesaid qualifications, the petitioners claim that they are eligible for appointment to the posts of Multi Purpose Health Workers (Female). The Director, Health Services and Family Welfare, issued a public notice on 1.9.2006, inter alia, inviting applications for appointment against the posts of Multi Purpose Health Workers (Female). The petitioners submitted their application forms well before the last date of receipt thereof. On the basis of the qualifications possessed by them, it is their contention, that they ought to have been considered for

appointment against the posts of Multi Purpose Health Workers (Female). It is, however, lamented that despite their eligibility, they were not invited for an interview, and as such, they have been deprived of the rights vested in them under Article 16 of the Constitution of India, from competing for the posts of Multi Purpose Health Workers (Female).

Consequent upon their aforestated deprivation, the petitioners issued a legal notice dated 23.9.2006, calling upon the respondents to issue interview letters to them, within a period of 30 days. The aforesaid legal notice was, however, revised by another legal notice dated 27.9.2006, requiring the respondents to issue them interview letters within a period of 7 days. Sine the respondents did not invite the petitioners for interview, and therefore, deprived them from participating in the process of selection for appointment against the posts of Multi Purpose Health Workers (Female), they have approached this Court by filing the instant writ petition.

A perusal of the averments made in the instant writ petition reveals, that the petitioners were not allowed to participate in the process of selection, on account of the fact, that they were all over-age. In this behalf, it stands acknowledged that in the advertisement, in response to which the petitioners submitted their application forms, on the issue of age, the stipulation was as under:-

> "2. The candidate should be in the age group of 18-35 years, 5 years relaxation will be given in the SC/ST category."

It is, therefore, apparent that the advertisement requires candidates to be

between 18 years and 35 years as on the last date of receipt of application forms. It is conceded in the pleadings of the instant writ petition, that all the petitiones are over-age, in terms of the stipulation of age in the advertisement. The aforesaid stipulation, on the issue of age, is subject matter of challenge at the hands of the petitioners.

The first contention of the learned counsel for the petitioners is that the posts of Multi Purpose Health Workers (Female) have been advertised for purposes of direct recruitment for the first time in 2006 after the year 1994, and as such, the stipulation of age, should be laid down in such a manner, that all those who were eligible for appointment to the post of Multi Purpose Health Workers (Female) in the year 1994, but have been deprived from participating in any process of selection/appointment, on account of the non-advertisement of the posts, should be treated as eligible for appointment, in furtherance of the process of selection initiated in response to the advertisement dated 1.9.2006. In other words, it is the contention of the petitioners, that a candidate who was 35 years in 1994 should be permitted to participate in the instant process of selection. So as to examine the practicability of the issue, it is apparent that a candidate who was 35 years of age in 1994 would be 35 + 12 = 47 years of age in 2006. It is, therefore, apparent that the petitioners desire to seek an extension of age, on the basis of the instant contention upto 47 years, as on the last date of receipt of application forms. It is not possible for us to accept the instant contention of the learned counsel for the petitioners. The stipulation of age is always made keeping in mind the qualifications prescribed for appointment

against a post, as also, in administrative exigency of the duties and responsibilities assigned to a particular post. The wisdom of the employer, in fixing the aforesaid minimum and maximum age for recruitment to the post of Multi Purpose Health Workers (Female) is not subject matter of challenge at the hands of the petitioners, on any other logic, except that the posts in question have been advertised for the first time in the year 2006 after 1994. In our view, this cannot be a valid justification for extension of the upper age limit, prescribed for appointment to the post of Multi Purpose Health Workers (Female).

The second contention of the learned counsel for the petitioners is, that for various posts, as for instance, the posts of teacher, the age qualification is between 18 to 37 years. Likewise, it is submitted that for appointment to different posts in the Health Department also the prescribed age is 18 to 38 years, and as such, if the aforesaid age had been adopted for appointment to the post of Multi Purpose Health Workers (Female), the petitioners would have been eligible to participate in the process of selection, in response to the advertisement dated 1.9.2006. It is not possible for us to accept the contention of the learned counsel for the petitioners. Different requirements are prescribed for appointment against different posts and neither the educational qualifications nor the age stipulated/prescribed for one post can be claimed as a mandate for appointment to another post.

It would be pertinent to mention that during the course of hearing of the instant writ petition, we had granted learned counsel for the petitioners an opportunity to place on the record of this case, statutory

rules, if any, promulgated by the authorities for appointment to the post of Multi Purpose Health Workers (Female), and also, required him to inform this Court, whether there was any rule, by which the prescribed age could be relaxed. In fact, the Motion Bench's order dated 10.10.2006 clearly notices the aforesaid factual position. Suffice it to state, that the learned counsel for the petitioners, during the course of hearing, acknowledged that there were no statutorily rules prescribed for appointment to the post of Multi Purpose Health Workers (Female), and likewise, there is no statutorily rule for relaxation of age for the purpose of appointment to the post of Multi Purpose Health Workers (Female).

For the reasons recorded hereinabove, we find no merit in this petition and the same is, accordingly, dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

October 31 2006.
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